



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
Legal Branch
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KATHLEEN CONNELL
Chair

JOHN CHIANG
Member

B. TIMOTHY GAGE
Member

November 4, 2002

Private Information Letter 2002-0514

Re: *****

Dear *****.

In your correspondence dated *****, you responded to a previous letter from the Franchise Tax Board declining to issue a ruling under FTB Notice 89-277. That correspondence also included a second request for written advice from the Chief Counsel of the Franchise Tax Board.

Revenue and Taxation Code section 21012, subdivision (h), provides that "chief counsel rulings shall be issued as provided in published guidelines." On May 10, 1989, the Franchise Tax Board issued FTB Notice 89-277, entitled "Taxpayers' Bill of Rights, Franchise Tax Board Chief Counsel Rulings Guidelines." (Copy attached.) Subsection (D) of FTB Notice 89-277, which pertains to non-corporate taxpayers, provides that the Franchise Tax Board will answer inquiries of individuals and organizations about their status for tax purposes and the tax effects of their acts or transactions when appropriate in the interest of sound tax administration. Under that provision, the Franchise Tax Board has the discretion to decline to issue a chief counsel ruling if a response would not be appropriate in the interest of sound tax administration based upon any number of reasons, including, but not limited to, those reasons enumerated in subsection (C) of FTB Notice 89-277, pertaining to requests from corporate taxpayers.

We declined your previous request for a chief counsel ruling for two principal reasons. First, because it appeared that the request did not contain a complete statement of all facts relating to the transaction or disclose if the identical issue was in a prior return of the taxpayer for a previous year, or subject to an existing audit, protest, appeal, or litigation concerning the taxpayer, the request failed to comply with the requirements of FTB Notice 89-277. Second, it was our understanding that the taxpayer was subject to an audit, protest, appeal, or litigation within a few months from the date we reviewed the request and there was a possibility of continued activity on those or other tax years. Therefore, we decided that a response would not be appropriate in the interest of sound tax administration.

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We must decline your second request for a chief counsel ruling as well. A response to this request would not be appropriate in the interest of sound tax administration. Even if the second request complies with the requirements of FTB Notice 89-277 and the taxpayer's records do not reflect any recent activity, a response still would not be appropriate in the interest of sound tax administration because the request relates to past filing obligations.

Please specifically note that this letter does not constitute "written advice from the board" within the meaning of Revenue and Taxation Code section 21012, subdivision (a), and may not be relied upon within the meaning of that section.

Sincerely,

Tax Counsel

Encl: FTB Notice 89-277